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**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:  
AHERN ENERGY, LLC,  
☒ Affects this Debtor.

Case No.: BK-21-13053-NMC

Chapter 11

**LEAD CASE**

**Jointly Administered with:**

In re:  
EVAN BUCKLEY AHERN AND TAMMY  
TIPPETTS AHERN,  
☒ Affects this Debtor.

Case No.: BK-21-13054-NMC

Chapter 11

In re:  
GPSPRO, LLC,  
☒ Affects this Debtor.

Case No.: BK-21-13055-NMC

Chapter 11

Old Hearing Date: September 14, 2023  
Old Hearing Time: 9:30 a.m.

New Hearing Date: January 24, 2024  
New Hearing Time: 9:30 a.m.

**FIFTH STIPULATION BY AND AMONG AHERNS AND THE IRS REGARDING  
AHERNS' OBJECTION TO CLAIM NO. 10 FILED BY THE IRS AND REQUEST  
FOR TAX DETERMINATION UNDER 11 U.S.C. 505**

This stipulation ("Stipulation") is made by and between Evan Buckley Ahern and Tammy Tippetts Ahern (together, "**Debtors**"), by and through their counsel, Garman Turner Gordon LLP, and the United States of America, on behalf of its agency, the Internal Revenue

1 Service (“IRS”), by and through its counsel, Kenton McIntosh, Esq. Trial Attorney at the  
 2 Department of Justice Tax Division, and is predicated upon the following Recitals:

3 **RECITALS**

4 1. On June 16, 2021 (“**Petition Date**”), Ahern Energy, LLC, Debtors, and GPSPRO,  
 5 LLC each filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. See  
 6 Case No. BK-21-13053-NMC, ECF No. 1, BK-21-13054-NMC, ECF No. 1, and Case No. BK-  
 7 21-13055-NMC, ECF No. 1.

8 2. On June 18, 2021, the United States Trustee appointed a Subchapter V trustee (the  
 9 “**Trustee**”). See ECF No. 8.

10 3. The Chapter 11 Cases are jointly administered pursuant to the September 12,  
 11 2021 *Order Directing Joint Administration of Debtors’ Chapter 11 Cases Under Fed. R. Bankr.*  
 12 *P. 1015(b)* [ECF No. 49],<sup>1</sup> directing the joint administration of the Ahern Energy, LLC, Debtors,  
 13 and GPSPRO, LLC cases and designating Case No. BK-21-13053-NMC as the “Lead Case”.

14 4. On October 27, 2021, the IRS filed Claim No. 10 against the Debtors as a secured  
 15 claim pursuant to 26 U.S.C. § 6321 in the amount of \$599,938.15.

16 5. On January 28, 2022, Debtors objected to Claim No. 10 in the *Aherns’ Objection*  
 17 *to Claim No. 10 Filed by the IRS and Request for Tax Determination Under 11 U.S.C. 505* [ECF  
 18 No. 104] (“**Objection**”), which requested that the Court enter an order (i) disallowing  
 19 \$496,369.25 of Claim No. 10, and (ii) determining Debtors’ tax liability to the IRS is secured to  
 20 the extent of \$103,568.90, or such other amount and priority as determined by the Court.

21 6. On May 31, 2022, the IRS responded to the Objection in its *Response to*  
 22 *Objection to Proof of Claim* [ECF No. 172] (“**Response**”), which requested that the Court issue a  
 23 scheduling order providing for discovery and a date for an evidentiary hearing.

24 7. On October 14, 2022, the Court issued its *Order Approving Second Stipulation by*  
 25 *and Among Aherns and the IRS Regarding Aherns’ Objection to Claim No. 10 Filed by the IRS*

26  
 27  
 28 <sup>1</sup> Unless otherwise stated, all references to the docket (“ECF”) are to the Lead Case.

1 *and Request for Tax Determination Under 11 U.S.C. 505* [ECF No. 184] scheduling an  
2 evidentiary hearing on the Objection for February 15, 2023.

3 8. On March 30, 2023, the Court approved a stipulation between the Debtors and the  
4 United States continuing the evidentiary hearing on the Objection via Zoom video conference to  
5 September 14, 2023 [ECF No. 199] (the “**Scheduling Order**”), because the parties were still  
6 engaged in the production of documents to further define and narrow any disputes needing to be  
7 decided via an evidentiary hearing.

8 9. On or about February 14, 2023, Debtors provided the IRS with substantial  
9 documentation respecting the disputes between the parties. Given the volume of information  
10 provided by Debtors and the IRS caseload, the IRS continues to evaluate the documentation  
11 provided by the Debtors. Consistent with the position previously enunciated by the parties, the  
12 parties wish for the analysis provided the IRS by Debtors be analyzed by the IRS, that the parties  
13 have any necessary additional time to try and deal with any issues arising from the IRS’ review  
14 in order to determine the actual extent of the disputes with respect to the Objection, if any.

15 10. Since March 30, 2023 both the Debtors and the IRS have continued working to  
16 further reconcile each other’s calculations and analyses to narrow any ultimate issues requiring  
17 trial. Specifically, the IRS has concluded its audit of Debtors’ 2017 and 2018 tax returns, and  
18 Debtors are considering whether to accept the IRS’s determinations or challenge same. Further,  
19 the IRS is still processing Debtors’ 2013 and 2016 tax return. The ultimate outcome of any  
20 taxes, interest, penalties due the IRS by Debtors cannot be determined until all of Debtors’ tax  
21 returns have been processed as certain losses have been claimed which may affect the interest  
22 and penalty calculations.

23 11. Counsel for Debtors and the IRS have been monitoring the foregoing and have  
24 met and conferred in good faith by phone on multiple occasions and, in view of the foregoing,  
25 have agreed to stipulate that the Hearing on the Objection shall be continued to **January 24,**  
26 **2024**. This continuance is expected to allow the IRS to complete its review of the production  
27 and analysis provided and prepared for the IRS by Debtors and their CPA, for the parties to  
28 discuss any issues arising from the production and analysis, to attempt to address those issues, to

complete discovery concerning the items not resolved, and frame any open issues for determination by the Court in a cost and time efficient fashion.

12. Accordingly, the parties agree that the discovery cutoff shall be continued to **January 5, 2024.**

13. In accordance with the Court's July 2023 determination, the evidentiary hearing will be live in the courtroom.

14. The movant's declarations and exhibits must be submitted to opposing counsel no later than **January 10, 2024.**

15. The parties agree that the respondents' declarations and exhibits must be submitted to opposing counsel no later than **January 15, 2024.**

16. The parties agree that the parties must file a complete list of witnesses with correct spelling of the witnesses' full name as well as the exhibits expected to be presented at the Evidentiary Hearing, together with the exhibits themselves, no later than **January 19, 2024.**

NOW THEREFORE, Debtors and the IRS stipulate and agree as follows:

**STIPULATION**

Based upon the foregoing Recitals and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Debtors and the IRS stipulate and agree as follows, subject only to entry of an order by this Court approving this Stipulation, substantially in the form attached hereto as **Exhibit 1:**

1. The above Recitals are true and correct.
2. Debtors and the IRS have agreed that the Hearing on the Objection shall be continued to January 24, 2024 at 9:30 a.m.
3. The parties agree that the discovery cutoff shall be continued to **January 5, 2024.**
4. In accordance with the Court's July 2023 determination, the evidentiary hearing will be live in the courtroom.
5. The parties agree that the movant's declarations and exhibits must be submitted to opposing counsel no later than **January 10, 2024.**

6. The parties agree that the respondents' declarations and exhibits must be submitted to opposing counsel no later than **January 15, 2024**.

7. The parties agree that the parties must file a complete list of witnesses with correct spelling of the witnesses' full name as well as the exhibits expected to be presented at the Evidentiary Hearing, together with the exhibits themselves, no later than **January 19, 2024**.

**IT IS SO STIPULATED.**

GARMAN TURNER GORDON LLP

DAVID A. HUBBERT

Deputy Assistant Attorney General

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**EXHIBIT 1**

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Chapter 11  
Old Hearing Date: September 14, 2023  
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Hearing Date: January 24, 2024  
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**ORDER APPROVING FIFTH STIPULATION BY AND AMONG AHERNS AND THE IRS REGARDING AHERNS' OBJECTION TO CLAIM NO. 10 FILED BY THE IRS AND REQUEST FOR TAX DETERMINATION UNDER 11 U.S.C. 505**

The Court has considered the *Fifth Stipulation by and Among Aherns and the IRS Regarding Aherns' Objection to Claim No. 10 Filed by the IRS and Request for Tax Determination Under 11 U.S.C. 505* (the "**Stipulation**")<sup>1</sup> by the Aherns and the IRS, and finds that good cause exists to grant the relief requested. Accordingly:

The Hearing on the Objection shall be set for January 17, 2024 at 9:30 a.m., before Bankruptcy Judge Natalie M. Cox, via Zoom video conference. Prior to the Evidentiary Hearing, the Court shall send out the necessary information for all participants to appear.

IT IS FURTHER ORDERED that in accordance with the Court's July 2023 determination, the evidentiary hearing will be live in the courtroom.

IT IS FURTHER ORDERED that the discovery cutoff shall be continued to **January 5, 2024**.

IT IS FURTHER ORDERED that the Alternate Direct Testimony procedure under Local Rule 9017 will be followed. The movant's declarations and exhibits must be submitted to opposing counsel no later than **January 10, 2024**. The respondents' declarations and exhibits must be submitted to opposing counsel no later than **January 17, 2024**.

IT IS FURTHER ORDERED that the parties must file a complete list of witnesses with correct spelling of the witnesses' full name as well as the exhibits expected to be presented at the Evidentiary Hearing, together with the exhibits themselves, no later than **January 11, 2024**. The parties shall file the exhibits so that each exhibit can be opened individually from the docket. After all the exhibits are filed on the docket, the parties shall separately file their exhibit list, using the CM/ECF-assigned docket entry numbers for each exhibit and the corresponding CM/ECF-assigned page numbers to complete the exhibit list. A completed exhibit log form shall serve as the exhibit list. Exhibit log forms are available at [www.nvb.uscourts.gov](http://www.nvb.uscourts.gov). Parties can contact Benji Rawling for a copy of the completed Exhibit logs. The parties also need not

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<sup>1</sup> Any capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Stipulation.



1 provide a hard copy of their exhibits to the Court but must ensure that all witnesses will have  
2 access to physical or electronic copies of all exhibits prior to the hearing. All exhibits to which  
3 there are no objection shall be admitted by stipulation. Counsel may stipulate to an exhibit on  
4 one ground (e.g., foundation) while preserving an objection on another ground (e.g., relevance).

5 IT IS SO ORDERED.

6 Submitted by:

7 GARMAN TURNER GORDON LLP

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Deputy Assistant Attorney Genera

8  
9 By: /s/ William M. Noall

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